

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

LAVON BILLUPS,)	
)	
Plaintiff,)	
)	
v.)	NO. 08 C 3365
)	
CITY OF CHICAGO, et. al.)	JUDGE LEFKOW
)	
)	Jury Demand
Defendants.)	

MOTION FOR EXTENSION OF TIME
TO ANSWER OR OTHERWISE PLEAD

Defendant, City of Chicago, by its attorney, Mara S. Georges, and Defendant Officer Timothy Kinsella move this court for an extension of time to answer or otherwise plead in response to Plaintiff's complaint until August 22, 2008, and, in support, state as follows:

1. Plaintiff filed her complaint on June 11, 2008. The complaint alleges federal claims under 42 U.S.C. § 1983.
2. During that time, the undersigned attorney was on trial and was not assigned to this case until July 17, 2008. The undersigned was on vacation and out of the country until July 25, 2008.
3. On July 25, 2008, the undersigned attorney called the plaintiff's attorney to ask for an extension, the plaintiff's attorney did not agree to this extension without explanation.
4. The undersigned attorney needs to gather information and investigate all of the allegations alleged in the complaint before filing a responsive pleading. The undersigned needs to meet with her client so as to properly answer the complaint since the file is empty with the exception of the complaint.

5. As far as can be determined, this motion will not prejudice the Plaintiff or unduly burden the court's management schedule since the plaintiff's attorney submitted a waiver of service that required an answer or pleading by August 11, 2008. Therefore, the Defendants request until August 22, 2008, a mere two weeks after this deadline to answer or otherwise plead. (See, Unsigned Waiver of Service of Summons to Officer T. Kinsella, attached hereto as Exhibit A).

WHEREFORE, Defendant requests this court to enter an order granting an extension to August 22, 2008, to answer or otherwise plead in response to Plaintiff's complaint.

Respectfully submitted,

MARA S. GEORGES
Corporation Counsel of the City of Chicago

By: /s/ Suyon Reed
Assistant Corporation Counsel

30 North LaSalle Street - Suite 1400
Chicago, Illinois 60602
(312) 744-3283
Attorney No. 06280973

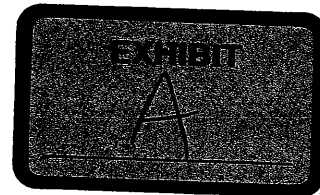
NOTE: When the print dialogue box appears, be sure to uncheck the Annotations option.

AO 399 (Rev. 05/00)

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF ILLINOIS

Waiver of Service of Summons



TO: Erickson & Oppenheimer, PC
(NAME OF PLAINTIFF'S ATTORNEY OR UNREPRESENTED PLAINTIFF)

I, Officer T. Kinsella, No. 17145, acknowledge receipt of your request
(DEFENDANT NAME)

that I waive service of summons in the action of Billups v. Chicago Police Officer Kinsella et al,
(CAPTION OF ACTION)

which is case number 08cv3365 in the United States District Court
(DOCKET NUMBER)

for the Northern District of Illinois.

I have also received a copy of the complaint in the action, two copies of this instrument, and a means by which I can return the signed waiver to you without cost to me.

I agree to save the cost of service of a summons and an additional copy of the complaint in this lawsuit by not requiring that I (or the entity on whose behalf I am acting) be served with judicial process in the manner provided by Rule 4.

I (or the entity on whose behalf I am acting) will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the court except for objections based on a defect in the summons or in the service of the summons.

I understand that a judgment may be entered against me (or the party on whose behalf I am acting) if an answer or motion under Rule 12 is not served upon you within 60 days after 06/11/08,
(DATE REQUEST WAS SENT)
or within 90 days after that date if the request was sent outside the United States.

(DATE) (SIGNATURE)

Printed/Typed Name: _____

As _____ of _____
(TITLE) (CORPORATE DEFENDANT)

Duty to Avoid Unnecessary Costs of Service of Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in saving unnecessary costs of service of the summons and complaint. A defendant located in the United States who, after being notified of an action and asked by a plaintiff located in the United States to waive service of summons, fails to do so will be required to bear the cost of such service unless good cause be shown for its failure to sign and return the waiver.

It is not good cause for a failure to waive service that a party believes that the complaint is unfounded, or that the action has been brought in an improper place or in a court that lacks jurisdiction over the subject matter of the action or over its person or property. A party who waives service of the summons retains all defenses and objections (except any relating to the summons or to the service of the summons), and may later object to the jurisdiction of the court or to the place where the action has been brought.

A defendant who waives service must within the time specified on the waiver form serve on the plaintiff's attorney (or unrepresented plaintiff) a response to the complaint and must also file a signed copy of the response with the court. If the answer or motion is not served within this time, a default judgment may be taken against that defendant. By waiving service, a defendant is allowed more time to answer than if the summons had been actually served when the request for waiver of service was received.